

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

DENNIS JAMES CLARK,

Plaintiff,

v.

STATE OF GEORGIA, et al.,

Defendants.

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Civil Action No. 5:09-CV-365 (HL)

ORDER

The Recommendation of United States Magistrate Judge Claude W. Hicks, Jr., entered November 6, 2009 (Doc. 7), in the above-captioned case is before the Court. Plaintiff has not filed written objections to the Recommendation, as permitted by 28 U.S.C. § 636(b)(1).

Magistrate Judge Hicks recommends that the State of Georgia, the Georgia Department of Corrections, and Shevondah Fields be dismissed from this action as defendants. The Magistrate Judge is correct that Plaintiff cannot maintain an action against the State of Georgia or the Georgia Department of Corrections, and those entities are dismissed as defendants.

As for Shevondah Fields, the Recommendation states that “plaintiff shows Shevondah Fields as a defendant in response to question 12 on the 42 U.S.C. § 1983 form, but he does not show this name in the heading of his complaint. Moreover, he has made absolutely no allegations against Shevondah Fields in his recast complaint.

This defendant is subject to dismissal for this reason.” (Doc. 7, p. 3). This statement is not entirely accurate. A review of the recast complaint filed by Plaintiff (Doc. 6) shows that he did name Shevondah Fields as a defendant in the heading of his complaint. He also states that he appealed his grievances on the issues complained about to Shevondah Fields with Inmate Affairs, but had “[n]o positive results as usual.” (Doc. 6, p. 4). Plaintiff did not, however, mention Fields in his “Statement of Claim.”

While Plaintiff did in fact mention Fields in his recast complaint, the Magistrate Judge is correct that she is entitled to be dismissed as a defendant. There is no constitutional right to a grievance procedure. Wildberger v. Bracknell, 869 F.2d 1467 (11th Cir. 1989). While inmates have a constitutional right to file grievances, and constitutional rights may be implicated if inmates are retaliated against for filing grievances, Id. at 1468, Plaintiff does not allege that Fields did either of those things. Thus, Fields was properly dismissed as a defendant.

The Court accepts the Recommendation as modified by this Order. The State of Georgia, the Georgia Department of Corrections, and Shevondah Fields are dismissed from this action. The claims against Defendants Terry, Perry, and Fye shall move forward.

SO ORDERED, this the 15th day of December, 2009.

s/ **Hugh Lawson**
HUGH LAWSON, SENIOR JUDGE

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